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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,047	03/31/2004	Gerald Liam Swift	01AN170-A / ALBRP241USA	9749
7590 11/30/2006			EXAMINER	
Susan M. Donahue Rockwell Automation, 704-P IP Department 1201 South 2nd Street Milwaukee, WI 53204			CARTAGENA, MELVIN A	
			ART UNIT	PAPER NUMBER
			3754	
DATE MAILED: 11/30/2006				

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/815,047  
Filing Date: March 31, 2004  
Appellant(s): SWIFT, GERALD LIAM

**MAILED**  
**NOV 30 2006**  
**GROUP 3700**

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Himanshu S. Amin  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed July 18, 2006 appealing from the Office action mailed June 20, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is substantially correct.

Claims 23-31 no longer stand rejected under 35 U.S.C. 112, second paragraph.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

4,462,467	Weingartner	7-1984
6,216,798	Riello et al.	4-2001

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**(9) Grounds of Rejection**

The rejection of claims 23-31 under 35 U.S.C. 112, second paragraph, is withdrawn.

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 10-19 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,462,467 to Weingartner.

Weingartner shows a system that facilitates operation of a tool as seen in Figs. 2 and 4, with a moveable member 4 having a length and able to move in a rotary motion about a central axis and a linear motion along the central axis to position an associated drive member 1, see column 2, lines 47-50, the drive member is parallel to the central axis and extends the length of the moveable member to engage the tool by coupling 3, the drive member operates independently of the moveable member, drive system 6, 11 and 13, a control system 18 and a housing 2.

With respect to claims 12-19, the device of Weingartner performs the method of coupling a movable member to a tool, rotating the movable member, driving a tool, driving the tool by magnetic drives 70, urging the movable member in contact with the tool and affixing the tool to one end of a drive rod substantially simultaneously as claimed in the method claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 9 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,462,467 to Weingartner in view of US 6,216,798 to Riello et al.

Weingartner shows all claimed features as discussed above except for the position of the moveable member controlled by magnetic positioning means. Riello shows an automatic work unit for machine tool having linear electromagnetic motor to control the liner and rotary motions and the position of the movable member 3. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Weingartner to include magnetic position control as taught by Riello to achieve working velocities and accelerations, for the work unit, greater than those normally found in mechanical units.

**(10) Response to Argument**

Appellant argues that the moving member of the device of Weingartner does not equate the moving member, claimed in claims 1 and 12, and that the device of Weingartner does not teach the invention in as much detail with respect to the moveable member moving in a rotatory motion about a central axis and linear motion along a central axis.

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The claims as written, require the moveable member to move in a rotary motion about a central axis and a liner motion along the axis, a drive member extending the length the moveable member to engage a tool and the moveable member and drive member to operate independently.

The device of Weingartner discloses a drive member 1 with a length that extends the length of a moveable member 4, the moveable member 4 moves independently of the drive member and is driven along the axis by a separate motor 9 and about a central axis with the drive member to positions the drive member forward as the moveable member reciprocates into the tool. Appellant's argument, with respect to claims 1 and 2 is incorrect.

Appellant argues that the device of Riello does not employ any type of moveable member for positioning the spindle for operation of the tool.

Riello discloses a movable member 3 positioning a spindle or drive member 5 to operate a tool attachable at the end 5a of the dive member.

In addition, Riello uses a linear electric motor with permanent magnets 20 and winding 21 to control the movement of the moveable member along the axis, the electric motor is asynchronous, therefore, is always in communication with controllers to determine the position of the moveable element and other factors such the moveable member displacement velocity.

Appellant's argument, according is incorrect.

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**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Melvin Cartagena

October 27, 2006

Conferees:

Kevin Shaver



Erick Keasel

